

June 28, 2024

The Honorable Katherine Tai  
U.S. Trade Representative  
600 17<sup>th</sup> Street NW  
Washington, DC 20508

***Re: Proposed change to Section 301 tariffs for goods made in China - 90183100***

Dear Ambassador Tai:

The American Hospital Association (AHA) represents nearly 5,000 hospitals and health systems, including our more than 270,000 affiliated physicians, 2 million nurses and other caregivers, and the 3,600 leaders who belong to our professional membership group, the Association for Health Care Resource & Materials Management (AHRMM). We are pleased to have this opportunity to comment on the proposed tariffs on Chinese-manufactured products, including many devices used in health care.

During the COVID-19 pandemic, the U.S. health care system struggled to acquire vitally needed equipment and devices. This included equipment and devices used in diagnosing and treating patients such as ventilators, syringes, vials and swabs; the microchips used in many devices, and gloves, gowns, and respirators, such as N-95s. We know how essential it is for this country to improve the resiliency of the supply chain to protect our ability to care for patients during both normal times and during emergencies. The AHA and several of its members have engaged with many parts of the Department of Health and Human Services, the White House Coronavirus Task Force and the Domestic Policy Council to identify critical equipment at risk of shortage and options for strengthening the stability of the supply chain for such equipment. We appreciate the opportunity to continue contributing to these discussions.

The U.S. health care system is broad, diverse and complex, and it is unlikely that any single solution can on its own strengthen the resilience of the device supply chain. It also is clear that some ideas will have repercussions that may pose additional risks to patients and/or staff and should be avoided. Below we share our specific concerns about the implications of the proposed tariffs and underscore our commitment to continue working with the Administration to develop and implement other, safer ideas.



## **Considerations for the Role of Tariffs in Bolstering the Supply Chain**

Tariffs are a blunt tool to disincentivize the purchase of foreign-made goods. The recently proposed substantial increase in tariffs for Chinese-made products used in the health care setting is intended to persuade hospitals and other care providers to alter their purchasing patterns to select goods made in the U.S. or other countries. For many health care goods, this strategy may fail or bring negative unintended consequences.

Some of the challenges in relying on tariffs to bolster the supply chain are described below.

**Lack of clarity about sourcing.** It is often hard for hospitals to tell where products are made. Many U.S.-based firms contract with or own plants in Asia, including in China, but the label on the product does not indicate the plant location. The only indication hospitals will have is a sudden product price increase.

**Existing contracts.** Hospitals and other providers often have multi-year contracts for medical products to secure a better price. Many may not be changeable simply because of the imposition of a tariff.

**Limited options for sourcing.** For some commonly used medical supplies, Chinese manufacturers dominate the market. These tend to be single-use disposable devices like gloves, facemasks and respirators, syringes, tubing, some surgical equipment, and other items. Manufacturers based in the U.S. or other parts of the world may simply not have sufficient capacity to meet the demand of the U.S. market without greatly increasing their current plant capabilities — and such changes can take significant investment and time to accomplish. Before the products could enter the U.S. market, the plants require review and approval by the Food and Drug Administration. The U.S. health care system may have to continue to buy goods made in Chinese plants until there are other viable options — assuming the imposition of the tariffs will entice others to begin or ramp up production outside of China.

Therefore, the tariff imposition would increase costs to hospitals and other parts of the U.S. health care system without resulting in the desired increase in supply chain resiliency. And such price increases would raise the costs of caring at a time when more than a third of hospitals are already operating at a loss, and their largest payers — Medicare and Medicaid — are providing payment increases for next year that are far below the rate of inflation. These additional costs could put greater financial strain on already struggling hospitals, potentially resulting in the loss of access to needed services in some of the poorest communities across the nation.

**Burden associated with adopting new products.** Hospitals consider the safety of their patients and workforce their top priority. Thus, they implement changes very carefully, ensuring that staff know how to operate any new device that could harm patients if misused. For example, an infusion pump, if improperly programmed, could

under or overdose a patient. Since such devices often have a different human-device interface when made by different manufacturers, the nurses and other staff who might use such devices must be trained on the particular model used. Depending on the device and the extent to which it is used in the hospital, this can involve substantial training. Other devices must be fitted to the individual using them to ensure safe and effective use. For example, N-95 respirators must be fit tested to ensure proper fit to the face of each staff member using them each time a new supplier's product is brought into the hospital. This is a burdensome and time-consuming task because these respirators are broadly used in hospitals. The difference in the cost may not be sufficient to encourage them to move away from their current trusted sources.

**Importance of safety by design.** Some devices have unique designs meant to decrease the likelihood of a patient being harmed by an unintended error by a caregiver. For example, enteral feeding syringes have a special connection designed to prevent the accidental administration of a substance into the patient's digestive tract that is supposed to be administered elsewhere in the body. The syringes have been given their own International Standards Organization number (ISO 80369), indicating their unique design. These syringes are commonly used in the neonatal intensive care unit to feed premature infants and small children with digestive problems. Most of the enteral feeding syringes used in the U.S. are manufactured by a Chinese company. It is unlikely that another manufacturer could rapidly develop the capacity to produce these syringes at the needed volume. If the increased tariffs were to cause hospitals to move away from these syringes to a product made outside of China, as they are designed to do, hospitals only real option would be to choose a standard syringe without the safe design, putting babies and children at increased risk of potential harm.

### **Recommendations**

We urge the U.S. Trade Representative (USTR) to reconsider its proposed approach to tariff use for health care goods. First, we believe the USTR should only impose tariffs if it can demonstrate sufficient manufacturing capacity outside of China to make choices among manufacturers a credible option. Further, so that hospitals and other providers may choose wisely, the USTR needs to consider how to make the sourcing of health care goods transparent to those doing the purchasing on behalf of providers. Without that information, providers would simply guess the source of the products they purchase.

Second, we urge the USTR to consider the impact of the tariffs on the financial situation of hospitals and other providers already under financial strain. USTR should either limit the number of products on which tariffs will apply or the amount of the tariffs to diminish the chance it will impose additional strain on hospital finances such that hospitals will be forced to close or eliminate needed services. It is simply not fair to a community to leave them without a hospital or necessary services to lessen America's dependence on Chinese-made products.

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Third, we urge the USTR to work with the Food and Drug Administration and health care supply leaders to identify goods for which a change in manufacturer will create a significant operational burden inside a hospital or force organizations to choose a less safe design, thereby endangering patients or staff. These goods should be excluded from the tariff.

Thank you for your attention to these comments. Should you have any questions or want further clarification, please contact me at [nfoster@aha.org](mailto:nfoster@aha.org).

Sincerely,

/s/

Nancy Foster  
Vice President for Quality and Patient Safety Policy